

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 858 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

PITHA MEGHA VINZUDA

Versus

G.S.R.T.C

Appearance:

MR RR TRIVEDI for Petitioner

MR SM MAZGAONKER for Respondent No. 1

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 28/11/96

ORAL JUDGMENT

Heard learned counsel for the parties.

2. The only contention made by the learned counsel for the petitioner is that the Labour Court has not gone on the question whether the punishment of dismissal given in the present case to the petitioner is excessive or not. The Labour Court has, in one line decided such a vital and important issue by saying that the punishment

of dismissal is not excessive under the circumstances of the case. The learned counsel for the petitioner further contended that it is a case where allegation on the petitioner was that the petitioner-conductor has resorted to road booking though it was not permissible. Some of the passengers were reported to be not given tickets by the petitioner. This case, what the petitioner's counsel contended, was of some violation of the regulations or the Circular of the Corporation for which the punishment of dismissal, given is highly excessive and disproportionate. It has next been contended by the learned counsel for the petitioner that the matter of dishonesty of an employee should be considered in the context of the prevalent condition of the country and it is too harsh to think and apply honesty to be there at the lowest level. On the other hand, the learned counsel for the respondent contended that the Labour Court has no doubt the power to go on sufficiency or adequacy of punishment as well as to consider whether the punishment given is excessive or not, and in this case the Labour Court has certainly gone on that question and did not found it to be a case of excessive punishment.

3. I have given my thoughtful considerations to the submissions made by the learned counsel for the parties.

4. Sitting under Article 226 and 227 of the Constitution of India, this Court has very very limited power of judicial review in the matter of punishment to be given to a delinquent employee for proved misconduct. A reference in this respect may have to the two decisions of Supreme Court in the case of State Bank of India v. Samrendra Kishore, reported in JT 1994(1) SC 217 and in the case of B.C. Chaturvedi v. Union of India, reported in JT 1995(8) SC 65. I find sufficient merits in the contention of the learned counsel for the petitioner that the Labour Court has not considered the question whether the punishment of dismissal given to the petitioner is excessive or not in the facts of the present case, in the spirit and the manner in which it is expected from it. No reason, good, bad or indifferent, has been recorded by the Labour Court in support of its finding that the punishment of dismissal is not excessive under the circumstances of the case. Reasons should have been given. The Labour Court has ample powers of judicial review on this question under Section 11A of the Industrial Disputes Act, 1947, and it is expected of the Labour Court, Rajkot, to give out reasons not to interfere with the punishment given by the disciplinary authority to the delinquent employee for proved misconduct. That obligation cast upon the Labour Court,

Rajkot, should have been discharged with sufficient clarity and reasoning because this Court has very limited powers of judicial review in the matter of quantum of punishment to be given to a delinquent employee.

5. In the result, this writ petition succeeds in part. Though the judgment of the Labour Court to the extent where it held that the inquiry was fairly and properly held, the petitioner was given full opportunity to defend in the inquiry and the misconduct alleged against him is proved, is not interfered with and the same is upheld, the matter is remanded back to the Labour Court, Rajkot, to consider the question whether the punishment given by the disciplinary authority to the petitioner is excessive or not, in the facts and circumstances of the present case. However, it is further made clear that while deciding this question, the Labour Court shall also keep in mind the prevalent conditions in the country. Rule made absolute subject to above observations. No order as to costs.

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(sunil)